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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,892	08/01/2003	Wing Kin Chan	007198-536	9815

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EXAMINER

DOAN, ROBYN KIEU

ART UNIT	PAPER NUMBER
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3732

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No. 10/631,892	Applicant(s) CHAN, WING KIN	
	Examiner Robyn Doan	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8,17,21,22,24-26,30 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7,9-16,18-20,23,27 and 28 is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6,8,17,21,22,24-26,30 and 36 is/are rejected.
- 7) ☐ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's Amendment filed 1/09/07 has been entered and carefully considered. Claims 1-6, 8, 21, 22, 26, 30 have been amended. Claims 29 and 31-35 have been canceled. New claim 36 has been added. Limitations of amended and new claims have not been found to be patentable over newly discovered prior art, therefore, claims 1-6, 8, 17, 21, 22, 24-26, 30 and 36 are rejected under a new ground rejection as set forth below.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8, 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "the housing" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 24 recites the limitation "said teeth spacing adjusting means" in lines 1, 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3732

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8, 17, 21, 22, 24-26, 30 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parkinson et al (U.S. Pat. # 5,488,783) in view of Walker et al (U.S. Pat. # 5,881,739).

With regard to claims 1, 36, Parkinson et al discloses a hair care device (figs. 9, 10) comprising hair combing means with a plurality of combing teeth (9, 10), a movement mechanism (30) for adjusting effective teeth spacing (see fig. 9) adjacent combing teeth, and a holding mechanism (34), wherein the hair combing means having a plurality of movable combing teeth (9) and the holding mechanism maintains the movable combing teeth at a user selectable position corresponding to one of a plurality of discrete positions during use and each one of the discrete positions corresponds to a pre-determined effective teeth spacing. Parkinson et al fails to show the movable combing teeth being thermally conductive and the discrete positions being three positions. Walker et al discloses a hair care device (fig. 1) comprising a plurality of movable teeth (11) being thermally conductive (metallic prongs). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the thermally conductive as taught by Walker et al into the hair care device of Parkinson et al in order to transfer the heat to the hair. It would also have been obvious to one having an ordinary skill in the art at the time the invention was made to construct three discrete positions, since such modification would involve a change in the number of the known component. With regard to claim 2, Parkinson et al shows the movement

Art Unit: 3732

mechanism having a driving member (37) and the driving member causes change in hair engaging tension by varying the effective teeth spacing between the adjacent combing teeth. In regard to claims 8, 22, Parkinson et al shows the combing means including first combing means (9) and second combing means (10) which are relatively movable, the device being a hair styling attachment with a housing which comprises an attachment mechanism (2, fig. 2 and col. 5, lines 18-21) for coupling to the nozzle of a hair dryer and wherein movement mechanism being adapted for gradually translating one of the combing means. In regard to claim 17, Parkinson et al shows the first and second combing means being relatively translatable along a first orientation, the combing teeth being generally elongated and extending along a second orientation (see fig. 9), wherein relative translation between first and second combing means along the first direction will cause the elongate teeth on one combing means traverse the spacing between adjacent teeth pairs (10) on the other combing means to vary the effective teeth spacing and means for adjusting (34) the effective teeth spacing controls the relative translation between the first and second combing means. Parkinson et al in view of Waker et al fail to show the first and second direction being substantially orthogonal, It would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the first and second direction being substantially orthogonal, since such a modification would have involved a mere change in the movement direction of the component. In regard to claim 24, Parkinson et al discloses means (36) to maintain the one (9) of the combing means at pre-determined positions along the first direction. In regard to claim 25, the predetermined positions

Art Unit: 3732

correspond to discrete settings of the effective teeth spacing of the device. In regard to claim 26, Parkinson et al inherently shows the teeth spacing on the first and second combing means being equal. In regard to claim 30, Parkinson et al in view of Walker et al disclose a hair care device as discussed above in claim 1 except for an air blower. It would have been an obvious matter of design choice to employ an air blower, since such modification would have been obvious to use with the shown device.

Claims 1-3, 5, 6, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collison (U.S. Pat. # 2,626,618) in view of Walker et al.

With regard to claims 1, 36, Collison discloses a hair care device (figs. 1-7) comprising hair combing means (10, 11, 12) with a plurality of combing teeth (at 17, 18, 19), a movement mechanism (21) for adjusting effective teeth spacing (see figs. 2-4) adjacent combing teeth, and a holding mechanism (23), wherein the hair combing means having a plurality of movable combing teeth (17, 18, 19) and the holding mechanism maintains the movable combing teeth at a user selectable position corresponding to one of a plurality of discrete positions (see figs. 2, 3) during use and each one of the discrete positions corresponds to a pre-determined effective teeth spacing. Parkinson et al fails to show the movable combing teeth being thermally conductive and the discrete positions being three positions. Walker et al discloses a hair care device (fig. 1) comprising a plurality of movable teeth (11) being thermally conductive (metallic prongs). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the thermally conductive as

Art Unit: 3732

taught by Walker et al into the hair care device of Collison in order to transfer the heat to the hair. It would also have been obvious to one having an ordinary skill in the art at the time the invention was made to construct three discrete positions, since such modification would involve a change in the number of the known component. With regard to claim 2, Collison shows the movement mechanism having a driving member (25) and the driving member causes change in hair engaging tension by varying the effective teeth spacing between the adjacent combing teeth. In regard to claim 3, Collison in view of Walker et al disclose the combing means having a first comb row (17, Collison) and a second comb row (18, Collison), each having a plurality of teeth (see fig. 1, Collison) and the first and second comb rows being relatively movable so that the effective teeth spacing transversely across the combing means are variable by relative movement of the first and second comb rows, the holding means having an arrangement of a plurality of indentation (24, see fig. 6, Collison) and a stud (20, Collison) for engaging with the indentations and cooperative engagement between the stud and the indentations defines a predetermined effective teeth spacing. With regard to claims 5, 6, Collison shows the width of some of the teeth inherently being comparable to their teeth spacing between adjacent comb teeth and wherein the movement mechanism including means (23) for maintaining the movable combing teeth at predetermined positions, the predetermined positions correspondent to discrete setting of different effective teeth spacing of the device.

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (571) 272-4711. The examiner can normally be reached on Mon-Fri 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3732

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robyn Doan
Examiner
Art Unit 3732